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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,050	06/28/2001	Leif Wilhelmsson	34650-00670USPT	5408
7590 10/06/2004			EXAMINER	
JENKENS & GILCHRIST 3200 Fountain Place 1445 Ross Avenue Dallas, TX 75202-2799			DEANE JR, WILLIAM J	
			ART UNIT	PAPER NUMBER
			2642	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/894,050

Applicant(s)

WILHELMSSON ET AL.

Examiner

William J Deane

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/30/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4 pages</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 4, 6, 8, 10 – 15, 17 – 20, 22 – 29, 31 – 32, 34 – 35 and 37 – 39 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/48586 (Posti).

Posti teaches a dynamic carrier selection method in which a carrier candidate list is created and changing from one carrier to another when the quality of the first carrier is not acceptable (see Abstract). In addition, note page 3, lines 9 – 32. Note ranking and re-ranking of candidate carriers (Page 6, line 21 – Page 7, line 13), quality measuring and threshold (Page 9, lines 4 – 10, Page 10, lines 14 – 17). Frequency – hopping (Page 10, 27 – 30 & Page 12, lines 14 - 35).

With respect to claim 8, 10, 20, 22, 24, 26, 35, 37 such is inherent with RSSI.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 7, 16, 30, 33 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Posti in view of 6,519,460 (Haartsen).

Posti does not specifically recite the use of a high-speed communications. However, Haartsen teaches that such is old in the art (see Abstract). It would have been obvious to one of ordinary skill in the art to have incorporated such a high-speed communications means as taught by Haartsen into the Posti device as such would only entail the substitution of one communication means for another.

Claims 9, 21 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Posti in view of WO 93/26100 (Israelsson).

Posti does not specifically recite a C/I. However, Israelsson teaches the use of C/I (note claim 13 of Israelsson). It would have been obvious to one of ordinary skill in the art to have incorporated such C/I into the Posti device as such would only entail the addition of a well-know quality measuring means or substitution of one quality measuring means for another.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent Nos. 6,760,317 (Honkanen et al.), 6,687,239 (Koprivica), 6,449,462 (Gunnarsson et al.), 6,353,645 (Solve et al.), 6,351,643 (Haartsen), 6,188,715 (Partyka), 5,752,192 (Hamabe) – note Abstracts and Figs.

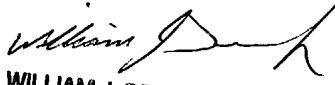
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9306.

26Sep04


WILLIAM J. DEANE, JR
PRIMARY EXAMINER